

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF LICENSING WATER )  
RIGHT PERMIT NO. 01-7011 IN THE NAME )  
OF TWIN FALLS CANAL COMPANY AND )  
NORTH SIDE CANAL COMPANY )  
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**NOTICE OF INTENT  
TO ISSUE LICENSE**

On June 29, 1977, the Idaho Department of Water Resources ("Department") issued Water Right Permit No. 01-7011 to Twin Falls Canal Company and North Side Canal Company ("Permit Holders") with a priority date of March 30, 1977. Permit No. 01-7011 authorized the year-round diversion of 12,000 cfs from the Snake River at Milner Dam for hydropower purposes and was issued without any subordination condition. Proof of construction of works and application of water to beneficial use was due on or before June 1, 1982.

On March 31, 1982, the Department approved an application for extension of time that extended the proof of beneficial due date to June 1, 1987. On March 4, 1987, the Department approved a second application for extension of time that extended the proof of beneficial due date to November 1, 1990, and added the following subordination condition to the permit:

The rights for use of water acquired under this permit shall be junior and subordinate to all other rights for the consumptive beneficial use of water, other than hydropower and groundwater recharge within the Snake River Basin of the state of Idaho that are initiated later-in-time than the priority of this permit and shall not give rise to any right or claim against any future rights for the consumptive beneficial use of water, other than hydropower and groundwater recharge within the Snake River Basin of the state of Idaho initiated later-in-time than the priority of this permit.

On October 30, 1990, the Department approved a third application for extension of time that extended the proof of beneficial due date to May 1, 1992. The application for extension stated that the Federal Energy Regulatory Commission ("FERC") issued the Permit Holders and the Idaho Power Company a license for Milner Project No. 2899 on December 15, 1988 (45 FERC ¶ 61,423). On April 28, 1992, the Department approved a fourth application for extension of time that extended the proof of beneficial due date to November 1, 1993.

The Permit Holders submitted proof of beneficial for Permit No. 01-7011 on November 1, 1993, pursuant to Idaho Code § 42-217. The field examination report completed by Charles E. Brockway, P.E. on October 29, 1993, recommends that the water right be licensed for a total diversion rate of 5,714.7 cfs for use at the Milner Power Plant. Proof of beneficial use having been submitted under the permit, the Department is prepared to issue a license for the water right pursuant to Idaho Code § 42-219. Counsel for the Permit Holders has orally requested that the Department issue a license for the water right.

SCANNED  
SEP 07 2007

The Department received written requests for notice for an opportunity to be heard on the form of the subordination condition to be included on the license for Water Right No. 01-7011 from the Bingham Ground Water District on January 11, 2007; from the Idaho Ground Water Appropriators, Inc. on February 7, 2007, for and on behalf of its ground water districts and other members, represented by the law firm of Racine Olson Nye Budge & Bailey, Chartered; and from the Mud Lake Water Users, Independent Water Users, Jefferson Canal Co., Montevue Canal Co., and Producer's Canal Co., on April 16, 2007, represented by the law firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C.

NOW THEREFORE NOTICE IS HEREBY GIVEN that the Department will accept and consider written Comments from the Permit Holders and other interested persons or entities addressing the form of the subordination condition that should be included on the license for Water Right No. 01-7011. Any Comments submitted should be addressed to Director, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098 and received by the Department or post marked on or before October 10, 2007.

DATED this 5<sup>th</sup> day of September 2007.

  
DAVID R. TUTHILL, JR.  
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of September 2007, I caused a true and correct copy of the foregoing Notice of Intent to Issue License to be sent by U.S. Mail, postage paid to the following:

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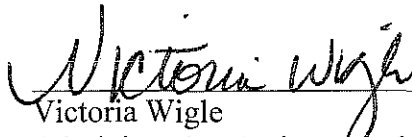
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Victoria Wigle  
Administrative Assistant to the Director  
Idaho Department of Water Resources